

REFERENCE TITLE: clean elections; matching fund limit

State of Arizona  
House of Representatives  
Forty-eighth Legislature  
Second Regular Session  
2008

# HB 2146

Introduced by  
Representatives Ableser, Chabin, Schapira

AN ACT

AMENDING SECTIONS 16-952 AND 16-954, ARIZONA REVISED STATUTES; RELATING TO  
THE CITIZENS CLEAN ELECTIONS ACT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Subject to the requirements of article IV, part 1, section  
3 1, Constitution of Arizona, section 16-952, Arizona Revised Statutes, is  
4 amended to read:

5 16-952. Equal funding of candidates

6 A. Whenever during a primary election period a report is filed, or  
7 other information comes to the attention of the commission, indicating that a  
8 nonparticipating candidate who is not unopposed in that primary has made  
9 expenditures during the election cycle to date exceeding the original primary  
10 election spending limit, including any previous adjustments, the commission  
11 shall immediately pay from the fund to the campaign account of any  
12 participating candidate in the same party primary as the nonparticipating  
13 candidate an amount equal to any excess of the reported amount over the  
14 primary election spending limit as previously adjusted, less six per cent for  
15 a nonparticipating candidate's fund-raising expenses and less the amount of  
16 early contributions raised for that participating candidate for that office  
17 as prescribed by section 16-945. The primary election spending limit for all  
18 such participating candidates shall be adjusted by increasing it by the  
19 amount that the commission is obligated to pay to a participating candidate.

20 B. Whenever during a general election period a report has been filed,  
21 or other information comes to the attention of the commission, indicating  
22 that the amount a nonparticipating candidate who is not unopposed has  
23 received in contributions during the election cycle to date less the amount  
24 of expenditures the nonparticipating candidate made through the end of the  
25 primary election period exceeds the original general election spending limit,  
26 including any previous adjustments, the commission shall immediately pay from  
27 the fund to the campaign account of any participating candidate qualified for  
28 the ballot and seeking the same office as the nonparticipating candidate an  
29 amount equal to any excess of the reported difference over the general  
30 election spending limit, as previously adjusted, less six per cent for a  
31 nonparticipating candidate's fund-raising expenses. The general election  
32 spending limit for all such participating candidates shall be adjusted by  
33 increasing it by the amount that the commission is obligated to pay to a  
34 participating candidate.

35 C. For the purposes of subsections A and B of this section, the  
36 following expenditures reported pursuant to this article shall be treated as  
37 follows:

38 1. Independent expenditures against a participating candidate shall be  
39 treated as expenditures of each opposing candidate, for the purpose of  
40 subsection A of this section, or contributions to each opposing candidate,  
41 for the purpose of subsection B of this section.

42 2. Independent expenditures in favor of one or more nonparticipating  
43 opponents of a participating candidate shall be treated as expenditures of  
44 those nonparticipating candidates, for the purpose of subsection A of this

1 section, or contributions to those nonparticipating candidates, for the  
2 purpose of subsection B of this section.

3 3. Independent expenditures in favor of a participating candidate  
4 shall be treated, for every opposing participating candidate, as though the  
5 independent expenditures were an expenditure of a nonparticipating opponent,  
6 for the purpose of subsection A of this section, or a contribution to a  
7 nonparticipating opponent, for the purpose of subsection B of this section.

8 4. Expenditures made during the primary election period by or on  
9 behalf of an independent candidate or a nonparticipating candidate who is  
10 unopposed in a party primary shall be deducted from the total amount of  
11 monies raised for purposes of determining the amount of equalizing funds, up  
12 to the amount of primary funds received by the participating candidate.  
13 Equalizing funds pursuant to subsection B of this section shall then be  
14 calculated and paid at the start of the general election period.

15 5. Expenditures made before the general election period that consist  
16 of a contract, promise or agreement to make an expenditure during the general  
17 election period resulting in an extension of credit shall be treated as  
18 though made during the general election period, and equalizing funds pursuant  
19 to subsection B of this section shall be paid at the start of the general  
20 election period.

21 6. Expenditures for or against a participating candidate promoting or  
22 opposing more than one candidate who is not running for the same office shall  
23 be allocated by the commission among candidates for different offices based  
24 on the relative size or length and relative prominence of the reference to  
25 candidates for different offices.

26 D. Upon applying for citizen funding pursuant to section 16-950, a  
27 participating candidate for the legislature in a one-party-dominant  
28 legislative district who is qualified for clean campaign funding for the  
29 party primary election of the dominant party may choose to reallocate a  
30 portion of funds from the general election period to the primary election  
31 period. At the beginning of the primary election period, the commission  
32 shall pay from the fund to the campaign account of a participating candidate  
33 who makes this choice an extra amount equal to fifty per cent of the original  
34 primary election spending limit, and the original primary election spending  
35 limit for the candidate who makes this choice shall be increased by the extra  
36 amount. For a primary election in which one or more participating candidates  
37 have made this choice, funds shall be paid under subsections A and B of this  
38 section only to the extent of any excess over the original primary election  
39 spending limit as so increased. If a participating candidate who makes this  
40 choice becomes qualified for clean campaign funding for the general election,  
41 the amount the candidate receives at the beginning of the general election  
42 period shall be reduced by the extra amount received at the beginning of the  
43 primary election period, and the original general election spending limit for  
44 that candidate shall be reduced by the extra amount. For a general election  
45 in which a participating candidate has made this choice, funds shall be paid

under subsections A and B of this section only to the extent of any excess over the original general election spending limit, without such reduction, unless the candidate who has made this choice is the only participating candidate in the general election, in which case such funds shall be paid to the extent of excess over the original general election spending limit with such reduction. For the purpose of this subsection, A one-party-dominant legislative district is a district in which the number of registered voters registered in the party with the highest number of registered voters exceeds the number of registered voters registered to each of the other parties by an amount at least as high as ten per cent of the total number of voters registered in the district. The status of a district as a one-party-dominant legislative district shall be determined as of the beginning of the qualifying period.

E. If an adjusted spending limit reaches ~~three~~ FIVE times the original spending limit for a particular election, the commission shall not pay any further amounts from the fund to the campaign account of any participating candidate, and the spending limit shall not be adjusted further.

Sec. 2. Subject to the requirements of article IV, part 1, section 1, Constitution of Arizona, section 16-954, Arizona Revised Statutes, is amended to read:

16-954. Clean elections tax reduction; return of excess monies

A. For tax years beginning on or after January 1, 1998, a taxpayer who files on a state income tax return form may designate a five-dollar voluntary contribution per taxpayer to the fund by marking an optional check-off box on the first page of the form. A taxpayer who checks this box shall receive a five-dollar reduction in the amount of tax, and five dollars from the amount of taxes paid shall be transferred by the department of revenue to the fund. The department of revenue shall provide check-off boxes, identified as the clean elections fund tax reduction, on the first page of income tax return forms, for designations pursuant to this subsection.

B. Any taxpayer may make a voluntary donation to the fund by designating the fund on an income tax return form filed by the individual or business entity or by making a payment directly to the fund. Any taxpayer making a donation pursuant to this subsection shall receive a dollar-for-dollar tax credit not to exceed twenty ~~percent~~ PER CENT of the tax amount on the return or five hundred dollars per taxpayer, whichever is higher. Donations made pursuant to this section are otherwise not tax deductible and cannot be designated ~~as~~ for the benefit of a particular candidate, political party, or election contest. The department of revenue shall transfer to the fund all donations made pursuant to this subsection. The department of revenue shall provide a space, identified as the clean elections fund tax credit, on the first page of income tax return forms, for donations pursuant to this subsection.

1 C. Beginning January 1, 1999, an additional surcharge of ten ~~percent~~  
2 ~~PER CENT~~ shall be imposed on all civil and criminal fines and penalties  
3 collected pursuant to section 12-116.01 and shall be deposited into the fund.

4 D. At least once per year, the commission shall project the amount of  
5 monies that the fund will collect over the next four years and the time such  
6 monies shall become available. Whenever the commission determines that the  
7 fund contains more monies than the commission determines that it requires to  
8 meet current debts plus expected expenses, under the assumption that expected  
9 expenses will be at the expenditure limit in section 16-949, subsection A,  
10 and taking into account the projections of collections, the commission shall  
11 designate such monies as excess monies and so notify the state treasurer, who  
12 shall thereupon return the excess monies to the general fund.

13 E. At least once per year, the commission shall project the amount of  
14 citizen funding for which all candidates will have qualified pursuant to this  
15 article for the following calendar year. By the end of each year, the  
16 commission shall announce whether the amount that the commission plans to  
17 spend the following year pursuant to section 16-949, subsection A exceeds the  
18 projected amount of citizen funding. If the commission determines that the  
19 fund contains insufficient monies or the spending cap would be exceeded were  
20 all ~~candidate's~~ ~~CANDIDATES'~~ accounts to be fully funded, ~~then~~ the commission  
21 may include in the announcement specifications for decreases in the following  
22 parameters, based on the commission's projections of collections and expenses  
23 for the fund, made in the following order:

24 1. First, the commission may announce a decrease in the matching cap  
25 under section 16-952, subsection E from ~~three~~ ~~FIVE~~ times to an amount between  
26 ~~three~~ ~~FIVE~~ and one times.

27 2. Next, the commission may announce that the fund will provide  
28 equalization monies under section 16-952, subsections A and B as a fraction  
29 of the amounts there specified.

30 3. Finally, the commission may announce that the fund will provide  
31 monies under section 16-951 as a fraction of the amounts there specified.

32 F. If the commission cannot provide participating candidates with all  
33 monies specified under sections 16-951 and 16-952, as decreased by any  
34 announcement pursuant to subsection E of this section, ~~then~~ the commission  
35 shall allocate any reductions in payments proportionately among candidates  
36 entitled to monies and shall declare an emergency. Upon declaration of an  
37 emergency, a participating candidate may accept private contributions to  
38 bring the total monies received by the candidate from the fund and from such  
39 private contributions up to the adjusted spending limits, as decreased by any  
40 announcement made pursuant to subsection E of this section.

41 Sec. 3. Requirements for enactment; three-fourths vote

42 Pursuant to article IV, part 1, section 1, Constitution of Arizona,  
43 this act is effective only on the affirmative vote of at least three-fourths  
44 of the members of each house of the legislature.